

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF OKLAHOMA**

Tikk-A-Wok, Inc. d/b/a Desi Wok

Plaintiff(s),

vs.

Case Number: 18-CV-570-JED-FHM

Travelers Casualty Insurance Company of  
America,

Defendant(s).

**JOINT STATUS REPORT**

**Jury Demanded:**    ☒ Yes    ☐ No

**I.        Summary of Claims:**

On February 19, 2017, Desi Wok suffered a fire and was forced to close for repairs. During the first sixty days after Desi Wok reopened, its revenue was approximately \$30,000 below comparable figures from prior years. Desi Wok filed a claim with Travelers for insurance benefits under the Extended Business Income Loss provision of the policy it obtained from Travelers. After multiple demands, Travelers remitted approximately 2% of the actual loss of business income Desi Wok suffered. Travelers breached its contract of insurance with Desi Wok by failing to pay the amount owed under the Extended Business Income Loss provision of the insurance policy. Travelers breached its covenant of good faith and fair dealing through its unreasonable investigation of the claim and choice to remit approximately 2% of the total business income. This conduct also shows reckless disregard toward the rights of Travelers' insured, Desi Wok, making punitive damages available.

A. Claims to be Dismissed: None at this time.

**II.       Summary of Defenses:**

Plaintiff made a claim regarding its premises for fire damage and business loss. Travelers properly performed its investigation, calculations, evaluation, and adjustment of the claim. After this process, Travelers has paid all monies due under the insurance contract. Consequently, Plaintiff's claims of breach of contract and bad faith are without merit.

A. Defenses to be Abandoned: None at this time.

**III.       Motions Pending** (Include Docket Number, Description and Date at Issue): None.

**IV.       Stipulations:**

A. Jurisdiction Admitted:    ☒ Yes    ☐ No (If no, explain.)

B. Venue Appropriate: ☒ Yes ☐ No (If no, explain.)

C. Facts:

- Travelers issued Policy No. 680-0E601655-17-42 to Tikk-A-Wok, Inc.
- Tikk-A-Wok, Inc. filed claim #E7L1610.
- Travelers remitted payment to Tikk-A-Wok, Inc. under the Extended Business Income Loss provision of the policy in the amount of \$650.88.

D. Law: Oklahoma substantive law applies to this action.

**V. Proposed Deadlines:**

A. Parties to be Added by: September 2, 2019

B. Proposed Discovery Cutoff Date (4 Months of Discovery Unless Extended by the Court for Good Cause): February 7, 2019

C. Fact Witness Lists to be Exchanged by: September 2, 2019

D. Proposed Date for Expert Reports by Plaintiff and Defendant: October 14, 2019

**VI. Fed. R. Civ. P. 26(f) Discovery Plan**

A. Should any changes be made to the timing, form or requirements for disclosures under Rule 26(a)?

☐ Yes (If yes, explain.)

☒ No

B. When were or will initial disclosures under Rule 26(a)(1) be made?

August 19, 2019.

Note that pursuant to Rule 26(a)(1), initial disclosures must be made within 14 days after you confer for the purpose of preparing this discovery plan. All parties are under an affirmative duty to (i) comply with the mandatory disclosure requirements, and (ii) notify the Court of any non-disclosure so that the issue can be promptly referred to a magistrate judge for resolution. Failure of any party to disclose information or failure of any party to bring disclosure issues to the Court's attention in a timely manner may result in sanctions, including prohibiting the use of that information at trial pursuant to Rule 37(c)(1).

C. Should discovery be conducted in phases and/or should discovery be limited at this time to particular subject matters or issues? ☐ Yes ☒ No

D. Should any changes be made in the limitations on discovery imposed by the Federal Rules of Civil Procedure or the Local Civil Rules?

☐ Yes (If yes, explain.)

☒ No

E. Proposed Number of Fact and Expert Depositions:

1. To be allowed for Plaintiff? 10 fact witnesses, each expert listed by Defendant.

2. To be allowed for Defendant? 10 fact witnesses, each expert listed by Plaintiff.

F. Is there a need for any special discovery management order(s) by the Court?

☐ Yes (If yes, explain.)

☒ No

G. The parties are directed to Guidelines for Discovery of Electronically Stored Information on the public website at [www.oknd.uscourts.gov](http://www.oknd.uscourts.gov) for advice on the production of electronic information.

**VII. Anticipated Dispositive Motions?**

☒ Yes (If yes, describe.)

Plaintiff anticipates filing a Motion for Summary Judgment on its breach of contract and breach of the covenant of good faith and fair dealing claims.

☐ No

**VIII. Do all parties consent to trial before the assigned magistrate judge?** ☐ Yes ☒ No

If yes, please email a proposed Consent to Magistrate for Trial (AO-085) to the Clerk via the designated mailbox at [CM-ECFIntake\\_OKND@oknd.uscourts.gov](mailto:CM-ECFIntake_OKND@oknd.uscourts.gov) and indicate the month and year in which trial by the magistrate judge is requested. Please do not file proposed documents as an attachment to a document. (Refer to Section XIV of the CM/ECF Administrative Guide of Policies and Procedures for further instruction regarding proposed documents.)

**IX. Is there any matter that should be referred to the assigned magistrate judge for final disposition upon partial consent of all the parties pursuant to Local Rule 73.1?** ☐ Yes ☒ No

If yes, please email a completed, proposed Consent to Magistrate Disposition Motion (AO 085A) to the Clerk via the designated mailbox at [CM-ECFIntake\\_OKND@oknd.uscourts.gov](mailto:CM-ECFIntake_OKND@oknd.uscourts.gov). Please do not file proposed documents as an attachment to a document. (Refer to Section XIV of the CM/ECF Administrative Guide of Policies and Procedures for further instruction regarding proposed documents.)

**X. Settlement Plan** (Check one):

☐ Settlement Conference Requested After:

Describe Settlement Judge Expertise Required, If Any:

☒ Private Mediation Scheduled On: TBD

☐ Other ADR (Explain):

☐ ADR Appropriate:

☐ Yes

☐ No (If no, explain.)

Copy of the Court's ADR Booklet Provided to Clients as Required?

Plaintiffs: ☒ Yes ☐ No

Defendants: ☒ Yes ☐ No

**XI. Does this case warrant special case management?**

☐ Yes (If yes, explain.)

☒ No

**XII. Do the parties request that the Court hold a scheduling conference?** ☐ Yes ☒ No

If a conference is not requested or ordered by the Court, the Court will, after receiving this report, issue a scheduling order based on the information contained in this report.

**XIII. Estimated Trial Time:** 3 days

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